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OFFICE OF PETITIONS

In re Application of:	:	
DAMARATI, John, Jairo	:	DECISION ON PETITION FOR
Application No.: 10/045,975	:	REVIVAL OF ABANDONED
Filing Date: January 10, 2002	:	APPLICATION UNDER
Attorney's Docket No.: 10121/02101	:	37 CFR 1.137(b)
For: METHOD AND DEVICE FOR	:	
ENDOSCOPIC SUTURING	:	

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-entitled application, filed December 23, 2005.

The petition is **GRANTED**.

This application became abandoned for failure to timely file a proper reply to the final Office action mailed February 09, 2005, which set a shortened statutory period of reply of three (3) months. Applicant filed three Amendments in response to the final Office Action, and paid for a two-month extension of time to respond. However, as indicated in the Advisory Actions mailed on April 19, 2005, July 27, 2005, and September 01, 2005, the Amendments were not sufficient to place the application in condition for allowance. Accordingly, the application was abandoned as of midnight on July 09, 2005.

On December 23, 2005, applicants filed the petition for revival under 37 CFR 1.137(b) considered herein. The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that it includes: (1) the petition fee; (2) the required statement of unintentional delay;¹ and (3) the required reply in the form of a Request For Continued Examination (RCE), with the required fee and an Amendment that satisfies the submission requirement of 37 CFR 1.114. Accordingly, the reply to the final Office action of February 09, 2005 (in the form of the RCE and submission) is accepted as having been unintentionally delayed.

¹ The Notification Of Abandonment mailed December 01, 2005 states that the Examiner "verified with applicant's representative, Mr. Kaplun, on 11/22/05 that the application is to be abandoned." However, in the present petition, Mr. Kaplun disputes this assertion, stating that while he informed the Examiner that the Notice Of Appeal was "inadvertently not timely filed," he never stated that the application was abandoned intentionally. Applicants' statements herein, including the statement that the "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional," are therefore accepted as the required statement of unintentional delay.

The application file is being referred to Technology Center AU 3731. Telephone inquiries concerning this decision should be directed to the undersigned.

A handwritten signature in black ink, consisting of a series of loops and a final flourish.

Richard M. Ross

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